

## **REMARKS**

As in the last round of prosecution, claims 1, 2, 5-8, 13, 15-22, 26, 28-31, 36, 38-45, 49-52, 54-57, and 60-88 are pending in this application. Applicant notes, however, that both applicant and the examiner misstated the pending claims in their last papers. By this amendment, claims 52 and 66 are canceled without prejudice or disclaimer of the subject matter therein. Claims 1, 2, 13, 54, 60, 61 and 81 are amended.

In view of the foregoing amendments and the following remarks, reconsideration and allowance is respectfully requested.

### **1. Overview.**

These claim amendments, while believed to place this application in condition for allowance, also simplify issues for appeal, do not raise new issues and should not require additional searching. Prior to this Amendment, independent claims 1 and 60 related to transmitting data indicative of monetary units from a cellular telephone to a point of sale terminal and independent claims 2 and 61 related to transmitting identifying information/data from a cellular telephone to a point of sale terminal. Applicant has amended independent claims 1 and 60 to remove the limitations relating to monetary units and has substituted the limitations of information/data so that all of independent claims 1, 2, 60 and 61 now are directed to transmitting information/data. Thus, these amendments simplify prosecution and issues for appeal.

Additionally, each of these independent claims has been amended to include the limitation of a transponder that is stimulated by a field generated at a point of sale terminal and, in response to the presence of the generated field, wirelessly transmits identifying data, for use in processing a purchase transaction, via a short range wireless transmission at a second frequency of the transponder. The limitation of a transponder was previously found in dependent claim 66, now canceled, and that limitation and related subject matter has been included in these independent claims. Accordingly, Applicant believes that no new issues are presented and that no new search should be necessary. Entry of these claims amendments is respectfully requested.

## **2. Independent claims 1, 2, 60 and 61**

Claims 1, 2, 60 and 61 have been rejected under 35 U.S.C. 103(a) based upon Walsh et al. (US 6,144,848) in view of Woodward et al. (US 6,343,159 B1). While Applicant expressly traverses the examiner's reading of the references and the rejection of these claims and reserves the right to further prosecute the subject matter of these claims as they stand prior to this amendment, Applicant believes the rejections are clearly overcome by applicant's present amendments.

In particular, each of independent claims 2 and 61 now includes limitations of "a first transmitter" and "a second transmitter", where the first transmitter transmits at a cellular frequency and the "second transmitter is comprised of a transponder" that wirelessly transmits a short range at a second frequency. As claimed, the transponder, in response to the presence of a field generated by a point of sale terminal, "is stimulated" and "wirelessly transmits identifying data" for the purpose of making a transaction at a point of sale terminal in physical proximity to the device. Walsh et al. and Woodward et al., whether taken alone or in combination, fail to teach these limitations. The presently claimed invention is highly advantageous in that it enables the device of the invention to be used to make telephone calls, to make purchase transactions at remote point of sale terminals, and to make purchase transactions at local point of sale terminals simply by placing the device in close proximity to, and within a field generated by, a local point of sale terminal. Accordingly, claims 2 and 61 are believed to be clearly allowable.

Additionally, each of claims 1 and 61 now includes limitations of "a first transmitter"(cellular), "a second transmitter" (short range, such as a wireless LAN or Bluetooth) and, additionally, a "third transmitter" (a transponder, as addressed above with respect to claims 1 and 2). In addition to the remarks set forth above, Walsh et al. and Woodward et al. clearly do not teach or suggest a three transmitter device, as claimed.

Additionally, with respect to claims 60 and 61 specifically, each of claims 60 and 61 includes a limitation that "said cellular telephone has an associated subscriber account and an amount corresponding to at least one purchase transaction made with said cellular telephone during a defined period of time is presented on a statement corresponding to said subscriber account and said defined period of time." Thus, the present invention, as claimed in claims 60 and 61, places information about a transaction made with a cellular telephone on, for example, a cellular subscriber statement. Applicant

finds nothing in Walsh et al. or Woodward et al. which teach or suggest such a limitation.

Each of claims 60 (and depending claim 64) and 61 (and depending claim 65) also stand rejected under Section 112, second paragraph. Correction has been made. Accordingly, it is believed that claims 1 and 61 are clearly allowable.

### **3. Independent claim 81.**

Independent claim 81 is directed to a method for processing, at a processing facility, a financial transaction made wirelessly with a first cellular telephone at a remote point of sale terminal and a purchase transaction made wirelessly with a second cellular telephone at a second point of sale terminal in physical proximity to the second cellular telephone. Applicant requests that the examiner substantively reconsider this rejection and also procedurally reconsider the final nature of the rejection. Walsh et al. Woodward et al. do not teach any methods for processing financial transactions, so a rejection of claim 81 based upon these references is improper. Additionally, since the examiner has provided no comments to support this rejection of claim 81, applicant request that the examiner reconsider whether the final nature of the rejection of this claim (and claims 82 to 88) is premature.

In order to move prosecution forward, and without conceding any claim language, applicant has also amended claim 81 to insert that a “purchase transaction to be processed has been wirelessly initiated via a short range wireless link by a transponder . . . that is . . . electrically exited by a short-range field generated at said second point of sale terminal”. Such a limitation is clearly not taught or suggested in Walsh et al. or Woodward et al., alone or in combination.

### **4. Dependent claim 82.**

Dependent claim 82 depends from claim 81 and includes the additional limitations of “tracking at least one of voice and data usage of said first cellular telephone” and “tracking at least one of voice usage and data usage of said second cellular telephone”. The examiner provides no remarks, beyond a rejection, concerning claim 82. Walsh et al. and Woodward et al. do not teach nor suggest a method for processing financial transactions and tracking voice or data usage. Claim 82 is clearly allowable over the current rejections.

### **5. Dependent claim 83.**

Dependent claim 83 depends from claim 81 and includes the additional limitation of “using a subscription account corresponding to at least one of voice and data use of said first cellular

telephone” to process said financial transaction. Beyond a rejection, the examiner provides no remarks to support the rejection of this claim. Neither Walsh et al. nor Woodward et al. teach or suggest using such a subscription account for processing transactions. Clearly, claim 83 is allowable over Walsh et al. and Woodward et al., alone or in combination.

**6. Dependent claim 84.**

Dependent claim 84 depends from claim 83 and includes the additional limitation of “presenting financial transaction information relating to said processed financial transaction and data indicative of at least one of said voice and said data usage on a periodic invoice associated with said subscriber account.” Neither Walsh et al. nor Woodward et al. teach or suggest this limitation and the examiner has provided no remarks in support of the rejection. Accordingly, claim 84 is believed to be clearly allowable.

**7. Independent claim 87.**

Independent claim 87 is directed to a method comprising electronically obtaining information concerning a processed purchase transaction wirelessly made over a cellular link from a cellular telephone at a first, remote point of sale terminal, electronically obtaining information concerning a processed sales transaction wirelessly made over a short range wireless link from said cellular telephone at a second point of sale terminal located in physical proximity to the cellular telephone, and electronically obtaining information concerning use of said cellular telephone for voice communications. Claim 87 stands rejected, without direct comment, based upon a combination of Walsh et al. and Woodward et al. Applicant traverses the rejection and requests reconsideration. Walsh et al. and Woodward et al. clearly do not teach the claimed limitations.

**8. Dependent claim 88.**

Dependent claim 88 depends from claim 87 and includes the additional limitation of “presenting said information concerning said processed purchase transaction, said information concerning said processed sales transaction, and said information concerning use of said cellular telephone for voice communications on a common statement.” Claim 88 stands rejected, *without comment*, based upon a combination of Walsh et al. and Woodward et al. Applicant traverses the rejection and requests reconsideration. Walsh et al. and Woodward et al. clearly do not teach the claimed limitations.

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## **9. Other dependent claims.**

Applicant submits that each of the dependent claims are allowable by virtue of the additional limitation(s) set forth in each dependent claim and by virtue of its dependence from an allowable base claim.

Concerning claims 4-8, 12-14, 27-32 and 35-37, regarding which the examiner states contain old and well known subject matter in the business art, Applicant traverses the rejection on the grounds that the claimed subject matter is not known. For example, while a portable computer may be known in the prior art, it is not known in the prior art in the manner claimed. The same holds true for use of certain claimed wireless techniques, such as (for example and not limited to) Bluetooth (claims 77 and 78) and short message service (SMS) (claim 54).

Concerning claims 16-26 and 39-49, the examiner acknowledges that Walsh et al. do not explicitly disclose a specific point of sale terminal. That is because, applicant contends, Walsh et al. does not teach a local point of sale terminal but rather communicates with a remote host server. The examiner states that “it is old and well known in the business art that a point of sale can be any” of the types claimed by applicant. Applicant submits that this rejection is improper. As one example, while a point of sale terminal at a fast food drive-through terminal may be known, applicant is unaware of prior art that teaches use of a cellular telephone to make purchases at such a fast food drive-through terminal (claims 19 and 42). The present invention provides that unique capability, and may serve to speed through-put at such drive-through terminals and prevent purchasers from having to fumble around a vehicle for other means of payment.

Concerning claims 62-65, Applicant traverses the examiner’s conclusion that Walsh et al. disclose a device that is intended for operation in physical proximity to the point-of-sale terminal. As addressed in previous papers, Walsh et al. teach a device for communicating with a remote host server.

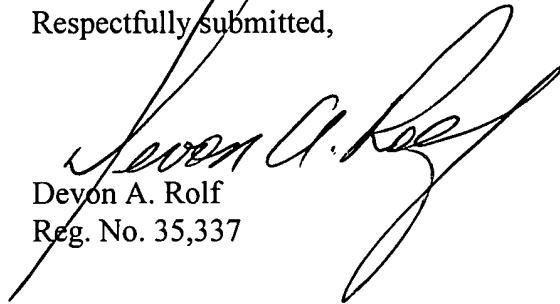
## **10. Conclusion.**

Walsh et al. and/or Woodward et al., alone or in combination, do not teach or suggest the invention(s) as set forth in the presently pending claims. As just a few examples, Walsh et al. and Woodward et al. do not teach or suggest use of a transponder that, in response to a field generated at a point of sale terminal, is electrically stimulated and transmits identification to the point of sale terminal via a short-range transmission. (Claims 1, 2, 60 and 61). Walsh et al. and Woodward et al. do not teach

or suggest using three transmitters (a cellular transmitter, a short range transmitter, and a transponder) (claims 1 and 60). Walsh et al. and Woodward et al. in no way teach or suggest methods for processing transactions (claims 81 and 87), and the examiner has provided no remarks to the contrary. Walsh et al. and Woodward et al. in no way teach or suggest use of a subscriber account (such as a cellular account) for presenting information about such a purchase made with the cellular telephone (claims 60 and 61).

In view of the foregoing amendments and remarks, applicant believes that this application is now clearly in condition for allowance. Accordingly, reconsideration and allowance is respectfully requested. Should the examiner have any questions or wish to discuss this application with the applicant, he is invited to contact the applicant at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Devon A. Rolf", is written over the typed name and registration number.

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